

ADMINISTRATIVE ORDER ON CONSENT

1. This Administrative Order on Consent (“Consent Order”) is made and entered into this 24th day of October, 2002, by and between the State of Nevada, Department of Conservation and Natural Resources, Division of Environmental Protection (“NDEP”) and the Atlantic Richfield Company (“Atlantic Richfield”). The NDEP and Atlantic Richfield are individually each a “Party” and are referred to collectively herein as the “Parties.”

2. This Consent Order requires Atlantic Richfield to perform the investigations, studies and other work described in the site specific Scope of Work (“SOW”), attached hereto as Exhibit A. The objectives of the work to be performed are to determine the nature and extent of contamination at or from the site, to provide the foundation to evaluate closure alternatives, and likewise develop a Final Permanent Closure Plan. The Parties enter this Consent Order pursuant to the Nevada Water Pollution Control Law, NRS 445A.300 to 445A.730, regulations of the State Environmental Commission, NAC 445A.070 to 445A.348, and all other laws of the State of Nevada that may apply to environmental conditions at the Site. For the purposes of this Consent Order, the “Site” means the Yerington Mine Site located at 102 Birch Drive near Yerington, Nevada in Lyon County, including portions of Township 13N, Range 25E, Sections 4, 5, 8, 9, 16, 17, 20, and 21 on the Mason Valley and Yerington USGS 7.5 minute quadrangles as further described in the map attached as Exhibit B.

I. BACKGROUND AND HISTORY OF WORK AT THE SITE

3. Anaconda Minerals Company (“Anaconda”), predecessor in interest to Atlantic Richfield, sold its interest in private lands contained within the Site in 1982 and has not owned or operated the Site since that time. The current owner/operator, Arimetco, Inc. (“Arimetco”), which conducted a copper recovery operation within the Site from 1989 to November 1999, has abandoned that portion of the Site and filed for bankruptcy.

4. The NDEP issued an Administrative Order (“1985 Order”) in 1985, alleging that Anaconda unlawfully discharged pollutants into waters of the state from former tailings ponds located at the Yerington Mine Site (“Site”), in violation of the provisions of Nevada Water Pollution Control Law, NRS 445A.300 to 445A.730 inclusive. In addition, sometime in the late 1990’s the United States Environmental Protection Agency (“EPA”) undertook preliminary investigations at the Site with the possibility of placing the Site on the National Priorities List (“NPL”), pursuant to Section 105, 42 U.S.C. 9605 of the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), as amended, 9601 *et seq.*

5. As a result of the NDEP’s 1985 Order, Atlantic Richfield commenced and performed remedial work at the Site, which included an active pump-back interceptor well system and associated evaporation system. Prior to performing any work Atlantic Richfield provided work proposals to the NDEP. The work performed was with the prior approval of the NDEP.

6. The Department of Interior, Bureau of Land Management (“BLM”), holds title to and manages federal lands within and adjacent to the Site, including lands upon which a portion of the Atlantic Richfield pump back system is located.

7. The NDEP has entered into a Memorandum of Understanding (“MOU”) with the United States Environmental Protection Agency, Region 9 (“EPA”) and the BLM related to coordination and oversight of assessment, characterization and response activities at the Site. The NDEP will coordinate all work to be performed under this Administrative Order on Consent consistent with the requirements of the MOU. As parties to the MOU, BLM and EPA will participate in the review of activities and requirements under this Order.

8. Atlantic Richfield and the NDEP recognize that it is in the public interest for Atlantic Richfield and the NDEP to build upon their longstanding cooperative working relationship at the Site and commence further investigation of Site conditions and development of a Site closure plan as provided herein, with the participation of all involved parties, including the BLM and the EPA. As a result, the Parties are now entering into this Consent Order to implement the SOW. The 1985 Order and the respective rights of Atlantic Richfield and NDEP there under shall remain in full force and effect; and

9. Atlantic Richfield, NDEP, EPA and BLM recognize that it is in the public interest to confer on further work at the Site and have, in fact, identified certain work to be conducted as set forth in the SOW. In correspondence dated, May 28, 2002, the NDEP, EPA and BLM approved the SOW with qualifications.

II. STATEMENT OF PURPOSE

10. The Parties enter into this Consent Order to further the remediation and stabilization at the Site. This Consent Order also provides for reimbursement of NDEP oversight costs, limits to liability for the Site, delineation of further work activities, and authorizes Atlantic Richfield to conduct response actions or other activities on Federal land under BLM jurisdiction as part of the approved SOW, subject to NDEP obtaining access from BLM for that purpose.

III. ATLANTIC RICHFIELD'S CONSENT TO NDEP JURISDICTION

11. To expedite the settlement of environmental issues raised in connection with past mining activities at the Yerington Mine, and to provide for the implementation of the investigations, studies and other work described in the attached SOW, Atlantic Richfield agrees to the terms of this Consent Order, and waives any right it may have to challenge the NDEP's jurisdiction to enter into or enforce the terms of this Consent Order, subject to its reservation of rights set forth in Paragraph 46.

IV. WORK TO BE PERFORMED

12. Atlantic Richfield shall submit and implement work plans consistent with the requirements of the SOW attached as Exhibit A and incorporated by reference. Upon the NDEP's approval of each work plan, as defined by the process set out in the MOU, Atlantic Richfield shall perform the work described in the SOW and the work plans as set forth in Section V below. Atlantic Richfield shall perform the work described in the SOW in a manner consistent with CERCLA and the NCP (National Contingency Plan).

The activities conducted pursuant to this Order, if approved by NDEP in consultation with EPA and BLM under the MOU decision process, shall be considered to be consistent with the NCP.

V. MODIFICATION OF THE SOW OR RELATED WORK PLANS

13. If it is determined that modification to the work specified in the SOW and/or in work plans developed pursuant to the SOW is necessary to identify the appropriate response action(s) for the Site and that such modification is consistent with the specific intent and purpose of the SOW, the NDEP, consistent with the MOU, may require that such modification be incorporated into the SOW and/or such work plans. If Atlantic Richfield objects to any modification determined by the NDEP to be necessary pursuant to this Paragraph, they may seek dispute resolution pursuant to Section IX. The SOW and/or related work plans shall be modified in accordance with final resolution of the dispute. Atlantic Richfield shall implement any work required by any modifications incorporated into the SOW and/or into work plans developed pursuant to the SOW in accordance with this Paragraph.

VI. PROJECT COORDINATORS

14. Designation of Project Coordinator. Atlantic Richfield and NDEP will each designate a Project Coordinator (“Project Coordinator”) and Alternate Project Coordinator (“Alternate Project Coordinator”) for the Site and will notify the Parties, in writing, of the name, address, and telephone number of such coordinators. The Project

Coordinator shall be a representative of a team of individuals who have expertise to oversee the Site. The Project Coordinators shall not be an attorney for either Party.

Unless Atlantic Richfield notifies the NDEP otherwise, Atlantic Richfield's

Project Coordinator shall be:

Dave McCarthy, Atlantic Richfield Company
307 East Park, Suite 400
Anaconda, MT 59711
TL: 406-563-5211, ext.430
FX: 406-563-8269
mccardt@bp.com

Unless Atlantic Richfield notifies the NDEP otherwise, Atlantic Richfield's

Alternate Project Coordinator shall be:

Robin Bullock
Atlantic Richfield Company
307 East Park, Suite 400
Anaconda, MT 59711
TL: 406-563-5211, ext.414
FX: 406-563-8269
bullorj@bp.com

Unless the NDEP notifies Atlantic Richfield otherwise, the NDEP's Project

Coordinator for the Site shall be:

Art Gravenstein, P.E.
Staff Engineer
Nevada Division of Environmental Protection
333 West Nye Lane
Carson City NV 89706-0851
TL: 775-687-9376
FX: 775-687-6396
agravens@ndep.state.nv.us

Unless the NDEP notifies Atlantic Richfield otherwise, the NDEP's Alternate

Project Coordinator shall be:

Jennifer Carr, P.E., C.E.M.
Remediation Branch Supervisor
Nevada Division of Environmental Protection
333 West Nye Lane
Carson City NV 89706-0851
TL: 775-687-9373
FX: 775-687-6396
jcarr@ndep.state.nv.us

Change of Project Coordinator. If a Project Coordinator or Alternate Project Coordinator initially designated is changed, the identity of the successor will be given to the other Party at least 5 working days before the changes occur, unless impracticable, but in no event later than the actual day the change is made.

15. Authority of the NDEP Project Coordinator.

The NDEP may designate other representatives, including, but not limited to, State employees, and State contractors and consultants, to observe and monitor the progress of any activity undertaken pursuant to this Agreement.

16. General Responsibilities of Project Coordinator.

a. Although Atlantic Richfield has ultimate responsibility for meeting their respective deadlines or schedules, the Project Coordinators shall assist in coordinating and consolidating project progress and disseminating status of the project.

b. The Project Coordinator(s) may also recommend and request field modifications to the Scope of Work to be performed pursuant to this Consent Order, or in techniques, procedures, or designs utilized in carrying out this Consent Order, which are necessary to the completion of the project. Any major modification must be approved in advance by the NDEP in writing.

c. The Project Coordinators shall be reasonably available to consult on work performed pursuant to this Consent Order and shall make themselves available to each other during the pendency of this Consent Order. The absence of any or all Project

Coordinators from the Site shall not be cause for work stoppage of activities taken under this Consent Order.

d. The NDEP Project Coordinator shall consult with the BLM and EPA pursuant to the MOU.

VII. PUBLIC PARTICIPATION

17. Atlantic Richfield shall submit a Community Relations Plan to NDEP as required by the SOW that shall provide appropriate opportunities for public comment by interested members of the public on work plans and other documents. Atlantic Richfield shall provide all required support information and cooperate with NDEP in NDEP's implementation of the approved Plan.

VIII. STIPULATED PENALTIES

18. Unless there has been a written modification approved by the NDEP, any failure by Atlantic Richfield to meet a schedule deadline or an approved work plan requirement may result in the NDEP assessing stipulated penalties against Atlantic Richfield. All penalty amounts are maximum amounts. Nothing in this Consent Order shall be construed to limit in any manner the NDEP's discretion with respect to whether to take enforcement action or to assess less than the maximum penalty. Failure to commence, perform and/or complete work as described in an approved work plan in a manner acceptable to the NDEP at the scheduled time may result in the following penalties subject, however, to a cap of \$250,000:

| <u>Period of Noncompliance</u> | <u>Maximum Penalty per Day</u> |
|--|--------------------------------|
| 1 st – 7 th day | \$ 1000 |
| 8 th – 21 st day | \$ 2,500 |

22nd day and thereafter

\$ 5,000

The assessment of stipulated penalties shall not alter Atlantic Richfield's obligation to comply with the terms of this Consent Order.

IX. DISPUTE RESOLUTION BETWEEN NDEP AND ATLANTIC RICHFIELD

19. The Parties shall use their best efforts informally and in good faith to resolve any dispute or differences of opinion. The NDEP and Atlantic Richfield agree that the procedures contained in this Section are the sole and exclusive procedures for resolving disputes between them arising under this Consent Order. If Atlantic Richfield fails to follow any of the requirements contained in this Section, then it shall have waived its right to further consideration of the dispute in issue.

20. If Atlantic Richfield disagrees, in whole or in part, with any written determination by the NDEP pursuant to this Consent Order, Atlantic Richfield shall notify the NDEP in writing of the dispute ("Notice of Dispute").

21. Any dispute, which arises under or with respect to this Consent Order, shall in the first instance be the subject of informal negotiations between the NDEP and Atlantic Richfield. The period for informal negotiations shall not exceed thirty (30) days following the date the dispute arises, unless such period is extended by written agreement of the NDEP and Atlantic Richfield. The dispute shall be considered to have arisen when the NDEP receives a written Notice of Dispute. For purposes of this agreement, all days shall be calendar days. Any date, calculated in compliance with the

terms of this agreement, which falls on a weekend or state or federal holiday shall be due on the following business day.

22. In the event that the NDEP and Atlantic Richfield cannot resolve a dispute by informal negotiations under the preceding paragraph, then the position advanced by the NDEP shall be considered binding unless, within twenty (20) days after the conclusion of the informal negotiation period, Atlantic Richfield invokes the formal dispute resolution procedures of this Section by serving on the Administrator of the NDEP a written Statement of Position which shall set forth the specific points of the dispute, the position Atlantic Richfield claims should be adopted as consistent with the requirements of this Consent Agreement, the basis for Atlantic Richfield's position, any factual data, analysis or opinion supporting that position, any supporting documentation relied upon by Atlantic Richfield, and any matters which it considers necessary for the Administrator's determination. The Statement of Position also may include a request for an opportunity to make an oral presentation of factual data, supporting documentation and expert testimony to the Administrator and to answer questions that the Administrator may pose. It is within the sole discretion of the Administrator to grant or deny a request for an oral presentation.

23. Within fifteen (15) days following receipt of a Statement of Position, or after any oral presentation by Atlantic Richfield, the Administrator shall issue his/her decision. The Administrator's written decision shall include a response to Atlantic Richfield's arguments and evidence. The written decision of the Administrator shall be considered the NDEP's final decision. Nevada law shall determine any right of appeal from the NDEP's final decision.

X. FORCE MAJEURE

24. Atlantic Richfield shall perform the requirements of this Consent Order within the time limits prescribed, unless the performance is prevented or delayed by events, which constitute a *force majeure*. Atlantic Richfield shall have the burden of proving such a *force majeure*. A *force majeure*, for purposes of this Consent Order, is defined as any event arising from causes not reasonably foreseeable and beyond the reasonable control of Atlantic Richfield, or of any person or entity controlled by Atlantic Richfield, which delays or prevents the timely performance of any obligation under this Consent Order despite Atlantic Richfield's best efforts to fulfill such obligation. A *force majeure* may include: extraordinary weather events, natural disasters, strikes and lockouts, national emergencies, delays in obtaining access or use of property not owned or controlled by Atlantic Richfield despite timely reasonable efforts to obtain such access or use approval, and delays in obtaining any required approval or permit from the NDEP or any other public agency that occur despite Atlantic Richfield's complete, timely and appropriate submission of all information and documentation required for approval or applications for permits within a timeframe that would allow the work to proceed in a manner contemplated by the schedule set forth in the SOW. A *force majeure* does not include (i) increased costs of the work to be performed under the Consent Order, (ii) financial inability to complete the work or (iii) normal weather events.

25. If any event occurs or has occurred that may delay the performance of Atlantic Richfield's obligations under this Consent Agreement, whether or not caused by a *force majeure* event, Atlantic Richfield shall notify the NDEP orally within two (2) business days of when Atlantic Richfield first knew that the event might cause a delay.

26. If Atlantic Richfield wishes to claim a *force majeure* event, then within five (5) business days thereafter, or such later date as may be reasonable considering the circumstances of the force majeure event, Atlantic Richfield shall provide to the NDEP a written explanation and description of the obligation(s) delayed or affected by the *force majeure* event; the reasons for the delay; the anticipated duration of the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Atlantic Richfield's rationale for attributing such delay to a *force majeure* event; and a statement as to whether, in the opinion of Atlantic Richfield, such event may cause or contribute to an imminent and substantial hazard to human health, welfare, or the environment. Atlantic Richfield shall include with any notice all available documentation supporting its claim that the delay was attributable to a *force majeure*. Failure to comply with the notice requirements of this paragraph shall preclude Atlantic Richfield from asserting any claim of *force majeure* for that event.

27. The NDEP shall notify Atlantic Richfield in writing of its *force majeure* determination within ten (10) days after receipt of the written notice from Atlantic Richfield. If the NDEP determines that the delay has been or will be caused by circumstances constituting a *force majeure* event, the time for performance of the obligations under this Consent Order that are affected by the *force majeure* event will be extended by the NDEP in writing for such time as the NDEP determines is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of

any other obligation, unless Atlantic Richfield can demonstrate to the NDEP's satisfaction that more than one obligation was affected by the *force majeure* event.

28. In the event that the NDEP and Atlantic Richfield cannot agree that any delay or failure has been or will be caused by circumstances constituting a *force majeure*, or if there is no agreement on the length of the extension, the dispute shall be resolved in accordance with the dispute resolution provisions set forth in Section IX of this Consent Order.

XI. REIMBURSEMENT OF OVERSIGHT COSTS

29. Atlantic Richfield shall reimburse the NDEP for costs reasonably incurred by the NDEP for the oversight of this Consent Order, following the effective date and for the effective period of this Consent Order. The NDEP shall account for oversight costs associated with implementing this Consent Order and related work and shall submit to Atlantic Richfield copies of all invoices on a quarterly basis, commencing with the first full calendar quarter after the effective date of this Consent Order. Submittals shall be made promptly after the NDEP's internal review.

a. NDEP's invoices shall contain sufficient detail to identify time accounting and all invoices or cost details for administrative and vendor expenses (such as travel, project-related training, equipment, photocopying expense and similar items). These invoices shall be prepared consistent with standard NDEP billing practices and shall not require the creation of new billing practices.

b. Amounts due hereunder shall be paid within thirty (30) days after receipt by Atlantic Richfield of the invoices. Upon request of NDEP, Atlantic Richfield agrees that upon written notice, the NDEP may submit a "pre-funding" invoice for Oversight

Costs. Atlantic Richfield may dispute particular invoiced costs if: (i) it determines that the NDEP has made an accounting error; (ii) it alleges that the particular cost is not incurred or to be incurred in oversight of an activity described in the SOW; or (iii) it alleges that the particular cost is otherwise not reimbursable pursuant to this Consent Order. In the event of any such dispute, Atlantic Richfield shall pay in a timely fashion undisputed costs. With respect to the disputed cost, Atlantic Richfield may pay such amount under protest and without prejudice to recovery of all or any portion thereof at the conclusion of any dispute resolution timely commenced pursuant to Section IX.

c. NDEP shall provide an estimated budget to Atlantic Richfield by April 15 of each year for the following NDEP fiscal year (July 1 through June 30). Upon request from Atlantic Richfield, NDEP shall meet with Atlantic Richfield to discuss the proposed estimated budget. NDEP's estimate of oversight costs for the period commencing upon the effective date and continuing through June 30, 2003 is \$75,000.00. NDEP's budget estimates are provided for planning purposes only, and any increase in oversight costs accounted for and invoiced by NDEP as provided for in this paragraph shall be paid by Atlantic Richfield, subject to its right to dispute invoiced costs as set forth above.

30. All payments due by Atlantic Richfield shall be by checks payable to the State of Nevada for the full amount due and owing to:

Nevada Division of Environmental Protection
333 W. Nye Lane
Carson City, Nevada 89710

ATTENTION: Chief, Bureau of Corrective Actions

All checks shall reference the Site, the invoice date for which payment is to be applied and Atlantic Richfield.

XII. PAYMENT OF ARIMETCO SITE COSTS

31. Atlantic Richfield shall make payment to the NDEP for care and maintenance costs associated with the Arimetco heap leach water management activities and related costs arising from Arimetco's unlawful abandonment of the Site, including without limitation, electrical power costs, equipment and services purchases, remedial dust control and contractor expenditures (hereinafter collectively referred to as "Arimetco Site Costs").

32. As of the effective date of this Consent Order, the NDEP demands that Atlantic Richfield make payment in the amount of \$288,830.69 for the past Arimetco Site Costs. The NDEP acknowledges that Atlantic Richfield has also paid electric power bills in the amount of approximately \$185,000.00. Such payment and future payments for Arimetco Site Costs made pursuant to Paragraph 31 are made without waiver of Atlantic Richfield's right to contest its liability and seek contribution from any person or entity therefore.

33. The NDEP shall submit future invoices, progress reports and supporting documentation related to Arimetco Site Costs on a quarterly basis, commencing with the first full calendar quarter after the effective date of this Consent Order. Submittals shall be made promptly after the NDEP's internal review.

a. NDEP's invoices shall contain sufficient detail to identify time accounting and all invoices or cost details for administrative and vendor expenses (such as travel, project-related training, equipment, photocopying expense and similar items). These

invoices shall be prepared consistent with standard NDEP billing practices and shall not require the creation of new billing practices.

b. Amounts due hereunder shall be paid within thirty (30) days after receipt by Atlantic Richfield of the invoices. Upon request of NDEP, Atlantic Richfield agrees that upon written notice, the NDEP may submit a “pre-funding” invoice for Arimetco Site Costs. Atlantic Richfield may dispute particular invoiced costs if: (i) it determines that the NDEP has made an accounting error, (ii) it alleges that the particular cost is not incurred or to be incurred for an action which is described in paragraph 31; (iii) it alleges that the particular cost is for an action described in paragraph 31, but such action is not under way on the effective date of this Consent Order; or (iv) it alleges such cost is otherwise not reimbursable pursuant to this Consent Order. In the event of any such dispute, Atlantic Richfield shall pay in a timely fashion undisputed costs. With respect to the disputed cost, Atlantic Richfield may pay such amount under protest and without prejudice to recovery of all or any portion thereof at the conclusion of any dispute resolution timely commenced pursuant to Section IX.

c. NDEP shall provide Atlantic Richfield by April 15 of each year with an estimate of Arimetco Site Costs to be incurred for the following NDEP fiscal year (July 1 through June 30). Upon request from Atlantic Richfield, NDEP shall meet with Atlantic Richfield to discuss the proposed estimate of Arimetco Site Costs. NDEP’s estimate of Arimetco Site Costs for the period commencing upon the effective date and continuing through June 30, 2003 is \$430,000.00. NDEP’s estimates of Arimetco Site Costs are provided for planning purposes only, and any increase in costs accounted for and

invoiced by NDEP as provided for in this paragraph shall be paid by Atlantic Richfield, subject to its right to dispute invoiced costs as set forth above.

34. All payments due by Atlantic Richfield shall be by checks payable to the State of Nevada for the full amount due and owing to:

Nevada Division of Environmental Protection
333 W. Nye Lane
Carson City, Nevada 89710

ATTENTION: Chief, Bureau of Corrective Actions

All checks shall reference the Arimetco Site, the invoice date for which payment is to be applied and Atlantic Richfield.

XIII. SITE ACCESS

35. Private Lands: Atlantic Richfield shall use best efforts to obtain, for it and its representatives, contractors and subcontractors, full access to the Site and other necessary property for purposes of planning and completing the Work and otherwise ensuring compliance with this Consent Order. In the event Atlantic Richfield is unable to secure such access to private lands, the NDEP shall take such steps, including but not limited to the issuance and enforcement of orders, if necessary, to secure access from any such Site owner to conduct the Work. As between Atlantic Richfield and the NDEP, the NDEP shall obtain and secure access to Arimetco property from Arimetco or any Arimetco successor for implementation of the Work.

36. Federal Lands: Portions of the Work will be implemented on or will affect lands under the jurisdiction of the BLM. For any property for which BLM has the legal right to control access where work is required under the SOW, NDEP shall with respect to those

properties, obtain access for NDEP, Atlantic Richfield and their representatives and contractors for the purpose of conducting any response action or other activity required by NDEP which is related to implementation of this Order.

XIV. COVENANTS NOT TO SUE BY THE NDEP

37. In consideration of the actions that will be performed by Atlantic Richfield under the terms of this Consent Order, and except as specifically provided in Paragraph 40 of this Section, the NDEP covenants not to sue or to take administrative action against Atlantic Richfield pursuant to Nevada State Law, CERCLA § 107(a), the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901-6992k, or the Clean Water Act, 33 U.S.C. §§ 1251-1387 for matters addressed by this Consent Order. These covenants are conditioned upon the satisfactory performance by Atlantic Richfield of its obligations under this Consent Order. These covenants extend only to Atlantic Richfield.

38. The covenants set forth above do not pertain to any matters other than those expressly specified in Paragraph 37. The NDEP reserves, and this Consent Order is without prejudice to, all rights against Atlantic Richfield with respect to all other matters not included in this Consent Order.

39. In the event the NDEP determines that Atlantic Richfield has ceased implementation or failed to implement any provisions of any portion of the SOW and is seriously or repeatedly deficient or late in their performance of the SOW, or is implementing the SOW in a manner which may cause an endangerment to human health or the environment, the NDEP may assume the performance of all or any portions of the SOW as the NDEP determines necessary. Atlantic Richfield may invoke the procedures set forth in Section IX to dispute the NDEP's determination that takeover of the SOW is

warranted under this Paragraph. Costs incurred by the NDEP in performing the SOW pursuant to this Paragraph shall be considered oversight costs that Atlantic Richfield shall pay pursuant to Sections XI and/or XII.

40. Notwithstanding any other provision of this Consent Order the NDEP retains all authority and reserves all rights to take any and all response actions authorized by law with regard to matters that are reserved from or not addressed by this Consent Order.

XV. COVENANTS BY ATLANTIC RICHFIELD

41. Atlantic Richfield hereby covenants not to sue and agrees not to assert any claims or causes of action against the NDEP with respect to the matters addressed by this Consent Order.

42. Atlantic Richfield reserves, and this Consent Order is without prejudice to, claims against the NDEP, subject to the provisions of the Nevada Revised Statutes and Federal law, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the NDEP while acting within the scope of his office or employment.

XVI. RESERVATION OF RIGHTS

43. The NDEP reserves all of its statutory and regulatory powers, authorities, rights, and remedies, both legal and equitable, which may pertain to Atlantic Richfield's failure to comply with any of the requirements of this Consent Order or of any requirement of federal or state laws, regulations, or permit conditions. Except as provided in Section XIV, this Consent Order shall not be construed as a covenant not to sue, release, waiver, or limitation of any rights, remedies, powers, and/or authorities, civil

or criminal, which the NDEP has under any applicable statutory or common law authority of the State. This Consent Order in no way relieves Atlantic Richfield of its responsibility to comply with any federal, state or local law or regulation.

44. The NDEP reserves the right to disapprove work performed by Atlantic Richfield pursuant to this Consent Order subject to Dispute Resolution under Section XI.

45. The NDEP reserves any and all legal rights and equitable remedies available to enforce (1) the provisions of this Consent Order, or (2) any applicable provision of state or federal law.

46. Atlantic Richfield reserves all rights, claims and/or defenses it may have in any action brought or taken by the NDEP, the United States, including without limitation the EPA and the BLM, or any third party pursuant to applicable law, with respect to any claim that may be asserted and further reserves the right to pursue potentially responsible parties to recover all cost incurred in the performance of this Consent Order including costs paid by Atlantic Richfield pursuant to Section XI (Reimbursement of Oversight Costs) and Section XII (Payment of Arimetco Site Costs).

47. Nothing in this Consent Order, or any action taken by Atlantic Richfield pursuant to this Consent Order, shall be construed as an admission of liability by Atlantic Richfield. Accordingly, this Consent Order, and any evidence as to its implementation, shall not be admissible in any judicial or administrative proceeding for any purpose other than a proceeding: (i) by NDEP for the enforcement of this Consent Order; (ii) as a defense against any claim satisfied under this Consent Order, or (iii) with respect to any claim in any proceeding brought by or against anyone not a Party to this Consent Order.

XVII. OTHER CLAIMS

48. Nothing in this Consent Order shall constitute or be construed as a release from, or covenant not to sue with respect to, any claim, cause of action, demand or defense in law or equity, against any person, firm, partnership, or corporation not a party to this Consent Order for, or in respect of any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, management, transportation, release, threatened release, or disposal of any waste at or otherwise associated with the Site. Atlantic Richfield agrees to indemnify and hold harmless NDEP for any liability incurred as a result of Atlantic Richfield's negligence or the negligence of its contractors arising from implementation of the SOW.

XVIII. APPLICABLE LAW

49. This Consent Order shall be construed in accordance with and governed by the law of the State of Nevada.

50. In satisfying the requirements of this Consent Order, Atlantic Richfield shall comply with all applicable federal, state and local laws and regulations. The work to be performed shall be consistent with CERCLA and the National Contingency Plan, 40 CFR § 300.1 et seq. The activities conducted pursuant to this Order, if approved by NDEP in consultation with EPA and BLM under the MOU decision process, shall be considered to be consistent with the NCP.

IXX. EFFECTIVE DATE

51. This Consent Order shall become effective when it is fully executed by the Parties. The effective date will be the date of last signature.

XX. TERMINATION

52. This Consent Order shall terminate upon the occurrence of any of the following two events:

a. The NDEP and Atlantic Richfield enter a new Consent Order to govern long-term remedial activity and this later agreement expressly supersedes the present Consent Order.

b. Atlantic Richfield completes the work under the SOW, subject to NDEP's right to request a modification of the work pursuant to Paragraph 13, and the NDEP issues written notice to Atlantic Richfield confirming that its obligations under the Consent Order have been fulfilled.

In addition, in the event the federal government takes action, including but not limited to the issuance of a unilateral administrative order, by EPA or BLM, which seeks to supercede or override the Parties' agreement in this Consent Order, in whole or in part Atlantic Richfield may, after consultation with the NDEP, elect to terminate, without penalty for noncompliance, any work under this Consent Order that is duplicative of, or inconsistent with, the work required by the federal action.

XXII. NOTICE PROVISIONS

53. Unless otherwise specified, any notice or other communication that is required under this Consent Order shall be sent to:

For the NDEP: Doug Zimmerman, Chief
Corrective Action Bureau
Nevada Division of Environmental Protection
333 West Nye Lane
Carson City, Nevada 89706-0805

For Atlantic Richfield:
Robin Bullock, Manager, OBC Mining
Atlantic Richfield Company
307 E. Park Street, Suite 400
Anaconda, MT 59711

With a copy to: Todd L. Normane
BP Legal Western Division
333 South Hope Street: PAC-2032
Los Angeles CA 90071
TL: 213-486-0806
FX: 213-486-0309

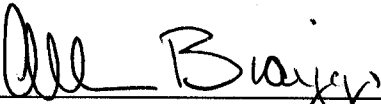
XXIII. GENERAL PROVISIONS

54. To the extent the provisions of this Consent Order apply to each signatory, they shall apply to and be binding upon such signatory, their respective officers, directors, agents, servants, employees, successors-in-interest and assigns.

55. Each undersigned individual represents and warrants that he or she is fully authorized by the party he or she represents to enter into, or otherwise sign, this Consent Order and to legally bind such party to the terms and conditions of this Consent Order that expressly apply to such party.

IT IS SO AGREED AND ORDERED.

STATE OF NEVADA

By: 

Allen Biaggi
Administrator

Date: 10/28/02

For the State of Nevada, by and through its Department of Conservation & Natural Resources, Division of Environmental Protection

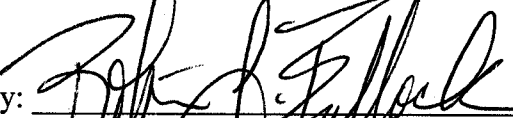
Approved as to form:

By: 

William Frey
Deputy Attorney General
State of Nevada

Date: 10.29.02

ATLANTIC RICHFIELD COMPANY

By: 

Robin Bullock
Manager, OBC Mining
Atlantic Richfield Company

Date: 10-25-02